

and nitrogen. According to the Examiner, Moore teaches this deficiency by disclosing an etch stop layer that may be made of silicon, nitrogen, and carbon. Moore does teach a layer containing these components, but Moore does not teach that this etch stop layer is a second insulating layer.

In Moore, the etch stop layer (132) is the only insulating layer present and lies in direct contact with the substrate (112), nodes (114, 116, 118), and conductive layer(s) (126). Applicant asserts that the mere teaching of a similar composition in Moore can not properly be used in combination with the teachings of Zhao to render obvious claim 4. The etch stop layer (132) of Moore does not appear to be used as both an insulating layer and as a mask, as required by claim 4. In addition, Zhao specifically teaches the use of separate insulating layers (14, 18), each with its own separate etch stop layer and each etch stop layer having the same composition. The varying etching of layers (14) and (18) can only be accomplished by the inclusion of the additional etch stop (15).

In contrast, the second insulating layer of claim 4 is selectively etched by a first plasma that does not etch the first insulating layer. Next, a second plasma of a different composition is used to etch the first insulating layer, but the second insulating layer acts as a mask for etching the first insulating layer and no etching of the second insulating layer occurs. Regardless of the composition of etch stop (132) taught by Moore, neither Zhao alone nor in combination with Moore teach two insulating layers, one capable of acting as a mask pattern for the other insulating layer as recited in claim 4. Both Zhao and Moore disclose separate etch stop layers and Zhao teaches two insulating layers of the same composition, not two insulating layers, one used as an etch stop. The invention of claim 4 eliminates the need for the separate etch stop(s) taught by Zhao

and Moore. Accordingly Zhao and Moore fail to teach or make obvious all of the recitations of claim 4.

The Examiner also rejected claims 5-7 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Zhao in view of Moore and further in view of various combinations of Fraser, Wolf, and Chen. None of these cited references supply the deficiencies in regard to the base rejection of claim 4 over Zhao in view of Moore. Accordingly claims 5-7 and 9, being dependent on claim 4, are allowable for at least the reasons previously stated.

Applicant believes claims 4-9 are in condition for allowance and respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 12, 2002

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